

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:18-cv-00146-FDW

BRICE C. MOORE,)
)
 Plaintiff,)
)
 vs.) ORDER
)
 FNU CORPENING, et al.,)
)
 Defendants.)
)

THIS MATTER is before the Court upon its own motion.

On May 25, 2018, Plaintiff, a prisoner of the State of North Carolina, filed a civil Complaint pursuant to 42 U.S.C. § 1983 against nine individuals he identifies as employees at Marion Correctional Institution (“MCI”). (Compl. 2-5, Doc. No. 1.) On May 29, 2018, the Clerk of Court mailed Plaintiff a Notice of Deficiency informing him that he must either file an application to proceed without prepayment of fees or pay the filing fee of \$400.00. (Doc. No. 4.) The Clerk provided a blank application with the deficiency notice and directed Plaintiff to correct the deficiency within 21 days or risk dismissal of his civil action for failure to prosecute. (Doc. No. 4.)

On June 6, 2018, the Clerk of Court received a submission from Plaintiff. Enclosed in the envelope were papers and a separately wrapped parcel, which Plaintiff asserted contained feces and urine from the air ventilation system at MCI. (June 6, 2018 staff notes.) Due to the nature of the contents, the Clerk's Office requested that the U.S. Marshal inspect the parcel. After inspection, the U.S. Marshal disposed of the entire submission and advised the Clerk of same.

Because the entire submission was destroyed without filing, the Court cannot be certain Plaintiff did not attempt to file an application to proceed without prepayment of fees in compliance with the Clerk's May 29, 2018 Notice of Deficiency (Doc. No. 4). In an abundance of caution, the Court will extend the deadline for Plaintiff to file an application to proceed without prepayment of fees or pay the \$400.00 filing of fee.

Federal law requires that a party instituting a civil action in federal district court pay a filing fee or be granted leave to proceed without prepayment of fees and costs ("in forma pauperis"). See 28 U.S.C. §§ 1914(a), 1915(a)(1). Accordingly, this Court will not consider any of Plaintiff's submissions, including motions for various forms of relief, until such time that he has cured this filing deficiency. Failure to cure the deficiency shall result in dismissal of this civil action for failure to prosecute.

In addition, Plaintiff is hereby put on notice that the Court does not store evidence for parties or act as an investigative agency. Plaintiff may not send further physical evidence to the Court unless directed to do so by order of this Court.

IT IS THEREFORE ORDERED that:

1. The Clerk of Court is directed to dispose of any further physical evidence sent by Plaintiff to the Court, as well as any correspondence included with such evidence, without processing. The docket should indicate the receipt and disposal of any such submissions;
2. The Clerk is directed to serve Plaintiff with a copy of this Order and a blank in forma pauperis application; and
3. Plaintiff shall have up to and including July 21, 2018 to complete, sign, and file the application. Alternatively, he must pay the entire \$400.00 filing fee by that

date.

IT IS SO ORDERED.

Signed: June 27, 2018



Frank D. Whitney
Chief United States District Judge

